

Return Date: January 12th, 2016
Time: 1:30 P.M. .

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

PETER S. SOLICITO,

Debtor

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Chapter 13
Case No. 15-35595 CGM

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the annexed application of Jeffrey L. Sapir, the Chapter 13 Trustee herein, a motion will be made before the Hon. Cecelia G. Morris, United States Bankruptcy Judge, at the United States Courthouse, located at 355 Main Street, Poughkeepsie, New York, on the 12th day of January, 2016 at 1:30 P.M. for an order dismissing the Chapter 13 case pursuant to 11 U.S.C. § 1307 (c)(1) on the ground that there has been unreasonable delay by the debtor that is prejudicial to creditors; and (c)(4) in that the debtor failed to remit timely plan payments to the trustee demonstrating good faith and feasibility; and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, are to be served on the undersigned and filed with the Court no later than three (3) days prior to the return date of this motion, and must comply with the Bankruptcy Court's electronic filing system in accordance with General Order M-242 and Supplemental General Order M-269.

Dated: White Plains, New York
December 3rd, 2015

/s/ Jeffrey L. Sapir
Jeffrey L. Sapir (JLS 0938)
Chapter 13 Trustee
399 Knollwood Road
White Plains, New York 10603
Chapter 13 Tel. 914-328-6333

TO: United States Trustee
74 Chapel Street
Albany, New York 12207

Peter S. Solicito
1238 Union Avenue
Newburgh, New York 12550

Andrea B. Malin, Esq.
Genova & Malin, Esqs.
1136 Route 9
Wappingers Falls, New York 12590

Wilmington Savings Fund Society, FSB
d/b/a Christiana Trust as Trustee of
Rushmore Loan Management Services, LLC
c/o Knuckles, Komosinski & Elliott, LLP
565 Taxter Road # 590
Elmsford, New York 10523

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13
Case No. 15-35595 CGM

PETER S. SOLICITO,

APPLICATION

Debtor

-----X

TO THE HON. CECILIA G. MORRIS, BANKRUPTCY JUDGE:

1. The debtor filed the instant voluntary Chapter 13 proceeding on April 3rd, 2015.
2. A hearing on confirmation was held on December 1st, 2015.
3. The debtor is in violation of 11 U.S.C. §1307 (c) (1) and (c)(4).
4. The debtor has failed to remit timely plan payments to the trustee, having remitted four payments, and being, at this juncture, three months in arrears.
5. The debtor's plan is not feasible in that the debtor is unable to remit monthly payments as required under 11 U.S.C. § 1325 (a)(6) and § 1326(a)(1).
6. The debtor has created unreasonable delay that is prejudicial to creditors.
7. It should be noted that the debtor has filed a prior petition with this Court, to wit, Case No. 14-36302 filed June 25th, 2014 and discharged December 9th, 2014 for which the debtor is denied a discharge in the instant case.

WHEREFORE, this Chapter 13 case should be dismissed pursuant to 11 U.S.C. §1307 (c)(1) and (c)(4).

Dated: White Plains, New York
December 3rd, 2015

/s/ Jeffrey L. Sapir
Jeffrey L. Sapir

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

Case No. 15-35595 CGM

PETER S. SOLICITO,

Debtor
----- -X

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in
the County of Westchester, State of New York.

On December 3rd, 2015 I served a true copy of the within document, to the herein
listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed
envelope with postage prepaid thereon, in an official depository of the United States Postal
Service within the State of New York to the following:

TO: United States Trustee
74 Chapel Street
Albany, New York 12207

Peter S. Solicito
1238 Union Avenue
Newburgh, New York 12550

Andrea B. Malin, Esq.
Genova & Malin, Esqs.
1136 Route 9
Wappingers Falls, New York 12590

Wilmington Savings Fund Society, FSB
d/b/a Christiana Trust as Trustee of
Rushmore Loan Management Services, LLC
c/o Knuckles, Komosinski & Elliott, LLP
565 Taxter Road # 590
Elmsford, New York 10523

/s/ Lois Rosemarie Esposito

Lois Rosemarie Esposito

Sworn to before me this
3rd day of December, 2015

/s/ Jeffrey L. Sapir

Jeffrey L. Sapir

Notary Public, State of New York

No. 02SA8764500

Qualified in Rockland County

Term Expires: 12/31/18